

REMARKS

Summary

The claims have been amended to address the rejections under 35 U.S.C. §§ 101 and 103. Therefore, the application is now in allowable form.

Status of the Claims

Claims 1, 4, 5, 7-9, 11, 12, 14, 15, 17, 18, 20, 21 and 23 are pending, with Claims 1, 12, 17, 18, and 23 being independent. Claims 2, 3, 6, 10, 13, 16, 19 and 22 have been cancelled without prejudice to or disclaimer to the subject matter contained therein. Claims 1, 4, 5, 8, 9, 11, 12, 14, 15, 17, 18, 20, 21 and 23 have been amended for reasons unrelated to patentability to improve their form. In addition, Claims 18, 20, and 21 have been amended to address a rejection under 35 U.S.C. § 101 and independent Claims 1, 12, 17, 18, and 23 have been amended to address a substantive rejection.

Requested Action

Applicant respectfully requests the Examiner to reconsider and withdraw the outstanding rejections in view of the foregoing amendments and the following remarks.

Applicant also respectfully requests that this Amendment be entered. This Amendment could not have been presented earlier as it was earnestly believed that the claims on file would be found allowable. Given the Examiner's familiarity with the application, Applicant believes that a full understanding and consideration of this Amendment would not require undue time or effort by the Examiner. Moreover, for the reasons discussed below, Applicant submits that this

Amendment places the application in condition for allowance. At the very least, it is believed to place the application in better form for appeal. Accordingly, entry of this Amendment is believed to be appropriate and such entry is respectfully requested.

Formal Rejection

Claims 18-22 are rejected under 35 U.S.C. § 101 because these claims do not recite that the computer program is embodied in a computer-readable medium. In response, while not conceding the propriety of the rejection, Claims 18, 20, and 21 have been amended to address the points raised by the Examiner, thereby overcoming the rejection against these claims. In addition, since Claims 19 and 22 have been canceled without prejudice, this rejection is moot with respect to these claims.

Substantive Rejections

Claims 1, 5, 6, 12, 17, 18, and 23 are rejected under 35 U.S.C. § 103(a), as being unpatentable over the patent to Hirai et al. (U.S. Patent No. 6,526,215). Claim 2 is rejected under 35 U.S.C. § 103(a), as being unpatentable over the patent to Hirai et al. in view of the publication to Kinjo (U.S. Patent Application Publication No. 2002/0046100 A1). Claims 3, 4, 13, 14, 19 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the patent to Hirai et al. in view of the patent to Isadore-Barreca et al. (U.S. Patent No. 6,205,231). Claims 10, 16, and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the patent to Hirai et al. in view of the patent to Dimitrova et al. (U.S. Patent No. 6,754,389). Claims 7-9, 15 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the patent to Hirai et al. in view

of the publication to Platt (“Auto Album: Clustering Digital Photographs using Probabilistic Model Merging.” Proc. IEEE Workshop on Content-based Access of Image and Video Libraries, June 16, 2000, pp. 96-1000). Claim 11 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the patent to Hirai et al. and the patent to Dimitrova et al., in view of the patent to Cosatto et al. (U.S. Patent No. 6,118,887).

Response to Substantive Rejections

In response, while not conceding the propriety of the rejections, independent Claims 1, 12, 17, 18, and 23 have been amended. Applicant submits that as amended, these claims are allowable for the following reasons.

Independent Claim 1 relates to a method of identifying images from a set of images. The method comprises the steps of choosing, from the set of images, an indicative image, and tagging certain images in the set.

Claim 1 has been amended to recite that the method is for identifying, from a set of images, images in which a specified person is present.

Claim 1 has also been amended to recite the steps of manually designating an accessory worn by the specified person in the indicative image, establishing for each image in the set of images a corresponding color segmented image having regions of uniform color, wherein the number of the regions is less than the number of colors in the image, determining for each image in the set whether the color of the designated accessory in the indicative image matches at least one color region of the corresponding color segmented image, and tagging the images in the set

whose corresponding color segmented images contain a region whose color matches the color of the designated accessory in the indicative image.

By this arrangement, there can be a significant reduction in the computing power needed to compare images (as discussed, for example, at pages 10 and 11 of the specification).

In contrast, the patents to Hirai et al. and Dimitrova et al. are not understood to disclose or suggest the step of establishing for each image in the set of images a corresponding color segmented image having regions of uniform color, wherein the number of the regions is *less* than the number of colors in the image, as recited by amended Claim 1. Therefore, these patents are also not understood to disclose or suggest the steps of determining for each image in the set whether the color of the designated accessory in the indicative image matches at least one color region of the corresponding color segmented image, or tagging the images in the set whose corresponding color segmented images contain a region whose color matches the color of the designated accessory in the indicative image, as also recited by amended Claim 1.

Rather, column 15, lines 35-44 of the Hirai et al. patent is merely understood to disclose that videos including a specific target person are identified by an image recognition technique similar “to the aforementioned scene change point detecting method”. This method, discussed at column 1, line 65 through column 2, line 2, merely “analyzes the received moving pictures on a frame basis and detects a scene change point and a cut change point on the basis of a degree of change in a color distribution between frames”. Moreover, the comparing of the degree of color distribution between frames is understood to teach away from the claimed method of matching a color to the color of a selected part for two reasons. First, determining a color-distribution change between frames can be performed, for example, by comparing of color histograms of

different frames. But as page 1 of the specification indicates, the present invention was designed to substantially overcome or at least ameliorate the disadvantages of using color histograms by proposing a completely different method of image identification. Second, the method of using a color-distribution change between frames to identify images is a whole-image color distribution comparison method. Such whole-image color distribution comparison methods are based on completely different principles than the present invention, which relies on color matching of a *part* of an object with an image. Thus, the cited portions of the Hirai et al. patent are not understood to relate to the simplified color-matching approach of the present invention.

The patent to Dimitrova et al. is understood to disclose a face tracking system for determining face trajectories in a sequence of image frames (column 8, lines 1-3). However, Dimitrova et al. is understood to state that the face detection process is time consuming (column 8, lines 24-26), and in order to reduce the use of this technique, uses predictive techniques for determining face trajectory after the face has been detected in the first image (column 8, lines 26-33). Thus, the patent to Dimitrova et al. is understood to teach that the use of the face detection approach is to be minimized and teaches away from use of this technique in the context of a simplified rapid method for identifying, from a set of images, images in which a specified person is present according to amended Claim 1.

In addition, the other applied art is also not understood to disclose or suggest the establishing, determining, and tagging steps recited by amended Claim 1.

MPEP § 2142 requires that to establish a prima facie case of obviousness, the cited art disclose or suggest *all* the claimed features. Since, here, the cited art is not understood to disclose or suggest the establishing, determining, or tagging steps recited by amended Claim 1,

the Patent Office is not understood to have established a prima facie case of obviousness against amended Claim 1.

In addition, MPEP § 2142 also requires that to establish a prima facies case of obviousness “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings”. But here, the Office has not provided the factual basis for establishing such motivation, since the Office Action has not cited evidence that the skilled artisan would be motivated to modify the Hirai et al. patent to produce the establishing, determining, and tagging steps recited by amended Claim 1. Therefore, for this additional reason, the Patent Office is not understood to have established a prima facie case of obviousness against amended Claim 1.

For these reasons, Applicant respectfully requests that the rejection of Claim 1 be withdrawn. And because independent Claims 12, 17, 18, and 23 have been amended in a similar manner, Applicant respectfully requests that the rejection of these claims be withdrawn for similar reasons.

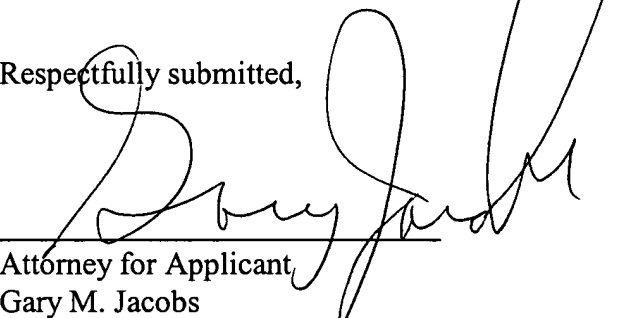
The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from independent claims discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

Conclusion

In view of the above amendments and remarks, the application is now in allowable form and entry of this amendment is considered proper. Therefore, early passage to issue is respectfully solicited.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,



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